

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/960,396 Confirmation No. : 5628
First Named Inventor : Stephen MCCANN
Filed : September 24, 2001
TC/A.U. : 2137
Examiner : J. L. Williams

Docket No. : 038819.50289
Customer No. : 23911

Title : Access Authentication System

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria , VA 22313-1450

Sir:

In response to the Restriction Requirement dated May 2, 2007, Applicants elect, with traverse, claims 1-9 and 21, which the Examiner identifies as Group I and indicates are drawn to a system requiring device-specific access accounts and the encoding of an authentication credentials. Applicants reserve the right to file a divisional application directed toward the non-elected claims.

Applicants traverse the Restriction Requirement on the grounds that the Examiner's own actions clearly demonstrate that there is no serious burden to continue to search and examine the claims of Groups I and II. Specifically, these claims were already rejected for obviousness on the same grounds of rejection in the Office Action dated October 3, 2006, thereby demonstrating that there was no burden on the Examiner at that time, and that the Examiner believed that these claims are classifiable in the same art area.

Furthermore, the Examiner's shifting classification of Applicants' claims appear to be for the sole purpose of improperly limiting the number of claims that Applicants' have a right to have examined. Specifically, accompanying a Request for Continued Examination (RCE) filed on June 27, 2006, Applicants added new claims 11-21. In response, an Office Action issued on October 3, 2006, required a restriction with the following claim groupings:

- Group I. claims 1-15 and 21 identified as being classified in class 713, subclass 150; and
- Group II. claims 16-20 classified in class 726, subclass 17 and class 705, subclass 30.

Applicants submitted a Reply to this Office Action on February 1, 2007, with a minor amendment to claim 1, and no amendments to independent claim 11.

The current Restriction Requirement now asserts that:

claims 1-9 and 21 are no longer classified in class 713, subclass 150, but instead are now identified as being classified in class 380, subclass 28 and class 726, subclass 9; and

claims 11-15 are no longer classified in class 713, subclass 150, but instead are now identified as being classified in class 726, subclass 17 and class 705, subclass 30.

It should be noted that the Office Action of October 3, 2006, indicated that a search of claims 11-15 *would not* include class 726, subclass 17 and class 705, subclass 30, the very same search areas that the current Restriction Requirement indicates are required for searching and examining these claims. The current Restriction Requirement provides no explanation as to why these claims, which

have not been amended, are now classifiable in a different search area. Nor has the current Restriction Requirement indicated why the minor amendment to claim 1 causes this claim to fall into an allegedly different search area than it was classified in the Office Action dated October 3, 2006.

Because the Office Action dated October 3, 2006, rejected claims 1-15 and 21 on the same grounds of rejection, indicating that there was no burden to search and examine these claims together, and the Examiner has provided differing classifications for essentially the same claims, it appears that the sole reason for this Restriction Requirement is to improperly limit the number of claims that Applicants have presented for examination. Therefore, Applicants respectfully submit that the Examiner's own actions demonstrate that there is no serious burden to search and examine all of claims 1-15 and 21 because such search and examination was already performed in this Office Action.


If there are any questions regarding this application, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Serial No. 09/960,396
Response Dated: May 18, 2007
Reply to Action Mailed: May 2, 2007
Attorney Docket No.: 038819.50289US

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #038819.50289US).

Respectfully submitted,

May 18, 2007



Stephen W. Palan
Registration No. 43,420

CROWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
SW:crr
3112773